

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL No. 716 of 1985****For Approval and Signature:****HONOURABLE MR.JUSTICE AKSHAY H.MEHTA**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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MEHBOOBKHAN NASIRKHAN PATHAN - Appellant(s)**Versus****MUFATANKHAN KALIKHAN PATHAN (DELETED AS PER COURTS ORDER)
& 1 - Defendant(s)**

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Appearance :

NOTICE SERVED for Appellant(s) : 1, (MR PB MAJMUDAR) for
Appellant(s) : 1,
None for Defendant(s) : 1,
MR HARDIK C RAWAL for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA**Date : 07/11/2006****ORAL JUDGMENT**

1. The original claimant has preferred this appeal
for enhancement of the compensation awarded for the death
of his child aged about three years in a vehicular

accident which took place on 29th September, 1981 at about 10:15 a.m. On that day, deceased minor Kaiyub and two other children were crossing the road with their aunt near Nava yard, at that time respondent no. 1, who is now deleted from the proceeding, drove the vehicle rashly and negligently and in the process of overtaking another bus, knocked down the deceased causing him serious injuries. The child was immediately removed to the S.S.G., hospital where he died within few hours of the admission. The appellant, therefore, filed MACP No. 577 of 1981 before the MACT (Special), at Vadodara against respondents no. 1 and 2. The offending bus belonged to respondent no. 2.

2. The Tribunal at the end of the trial, by judgment and award dated 8th June, 1982 partly allowed the petition and granted compensation of Rs.3,000=00 with proportionate costs and running interest at the rate of 6% per annum from the date of the petition till recovery. The appellant being aggrieved by the said award has approached this Court on the ground that it is grossly inadequate.

3. I have perused the judgment of the Tribunal and other relevant documents of the record and proceedings of the case. The claim was of Rs.9,999-00. As against that

the Tribunal has awarded only Rs.3,000=00 and no specific reason has been assigned except that the deceased was aged three years, Rs.3,000=00 was the adequate amount which could be awarded by way of compensation to the appellant. Judging by any standard, the said amount is hopelessly inadequate. In the recent decisions the Apex Court in the cases also has awarded, much higher sums than even claimed by the appellant, for the death of a child. In view of the same, this appeal is required to be allowed. Since the appellant is entitled to receive full amount claimed before the Tribunal, respondent no. 2 is directed to pay to the appellant additional sum of Rs.6,000=00 together with proportionate costs and interest at the rate of 6% per annum on the additional amount from the date of the application till deposit before the Tribunal. Respondent no. 2 is directed to deposit the amount within three months from the date of this judgment. Upon deposit of the amount, the Tribunal is directed to issue notice to the appellant and after due verification pay the amount to him by A/c. Payee cheque.

The net result is that the appeal is allowed.

R & P to be re-transmitted to the Tribunal forthwith.

[Akshay H. Mehta, J.]

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